

**UNITED STATES DISTRICT COURT
FOR THE DISTRICT OF NEW JERSEY**

431 E PALISADE AVENUE REAL
ESTATE, LLC and 7 NORTH
WOODLAND STREET, LLC, on behalf of
themselves and prospective residents, JOHN
and JANE DOES 1-10,

Plaintiffs,

v.

CITY OF ENGLEWOOD and CITY
COUNCIL OF ENGLEWOOD,

Defendants.

Civil Action No. 2:19-cv-14515-BRM-JAD

Document Electronically Filed

JOINT DECLARATION OF

HONORABLE SONDR A GREENBERG;
HONORABLE STEVEN ROTHMAN; and
HONORABLE DONALD ARONSON

We, Sondra Greenberg, Donald Aronson, and Steven Rothman, hereby declare as follows:

1. We are three of the past living former Mayors of the City of Englewood.
2. The following were our terms as Mayors:
 - a. Sondra Greenberg served from 1977 to 1983
 - b. Steven Rothman served from 1983 to 1989
 - c. Donald Aronson served from 1989 to 1998
3. A proposal has been made for a rezoning of the property commonly known as 431 East Palisade Avenue, 7 North Woodland Street, and 405 East Palisade Avenue in the City of Englewood, New Jersey (the "Property").
4. We are all current residents of the City of Englewood and are familiar with the City and its zoning districts. We also are of the Jewish faith (even though we do not think that should be relevant, but the Plaintiff has raised it). The following are the lengths of time we have been residents:

- a. Sondra Greenberg, since 1954
- b. Steven Rothman, 1952 – 1963; 1977 – 1989; 2012 – Present (30 years and counting)
- c. Donald Aronson, since 1966

5. The subject Property is located in the R-AAA Zone. The minimum lot size in this zone is the largest in the City—two acres.

6. While the minimum acreage was one acre, that was changed by Ordinance No. 90-11 adopted on May 15, 1990, when the minimum lot size was increased to two acres, and when the Honorable Donald Aronson was Mayor. Ordinance No. 90-11 is attached as **Exhibit “A.”**

7. The Ordinance was then further amended in 1993 by Ordinance No. 93-16.

8. The City has a long history of upzoning lands not only in the R-AAA Zone but in the other zones as well. Starting in the late 1970’s, the lot sizes in residential zones were increased so as to increase open space, control large densities, and decrease impervious coverage.

9. The prior Zoning Ordinance, before the R-AAA Zone was amended, was to the best of our knowledge adopted on or about October 21, 1984, when the maximum lot size was 44,000 square feet.

10. A central focus has always been to preserve the historic “East Hill” area. The City’s 1988 Master Plan for example provided as follows:

A major planning goal and policy of this Plan is to preserve the integrity and character of residential areas and retain the spaciousness of the “east hill” area. The subdivision of “east hill” properties could erode this desired sense of openness. Therefore, the Master Plan recommends that a new one family residence zoning district with a minimum lot area of 88,000 square feet be created and superimposed over the current R-AA zoning district.

It is further recommended that that R-AA requirements be superimposed over other areas of the “east hill” that are now zoned R-A with a minimum lot area of 22,000 square feet. The R-AA regulations would increase the minimum lot area to 44,000 square feet.

There are three other smaller areas that are a part of the “east hill” fabric that are also vulnerable to subdivision activity and rezoning to a district with a larger minimum lot size is recommended:

1. Change an area east of Engle Street on both sides of East Hudson Avenue from RD to RB.
2. Change an area on the west side of Winthrop Place from RD to RB.
3. Change an area along the west side of Jones Road and the easterly portion of Sunset Avenue from RD to RA.

These recommended zoning amendments are delineated on the two following sketch maps of the northeast and southeast quadrants of Englewood. The base map for these sketches is the existing zoning map. [Emphasis supplied]

11. The Ordinance change was to protect and preserve this “historic” residential district. That zone contained very prominent properties and estates where the purpose was also to preserve that zoning and preserve open space and protect the character of the City neighborhoods and districts. Everyone knows this area as the “Historic East Hill,” which is in a sloping area up the side of the Palisades. As noted in the 2014 Master Plan (p. 3), there needs to be more consideration for preserving the character of the City’s various neighborhoods and districts in light of commercial and institutional expansion and the return of development interests.

12. Various developers have sought to provide multi-family and non-residential uses on larger tracts in the City. Any non-residential uses (*i.e.*, not single-family homes), are uses not permitted (or conditionally permitted). These developments have always gone to the Englewood Zoning Board of Adjustment and decided on a case-by-case basis.

13. The current application of Plaintiff belongs in the Englewood Zoning Board of Adjustment, where the facts of the proposal can be evaluated and where the public and adjacent

property owners can provide their input and comments after public notice, as required under the Municipal Land Use Law.

14. We were all in attendance at some part of the City Council meeting on July 23, 2019, when the request to rezone the property was raised by Plaintiff which was required to be considered by the Council. We are concerned about “spot zoning” of the property. The City has always been considerate in accommodating all races, religions, and backgrounds, including seniors and those needing assisted living. We support the Council’s decision to take no action, and emphasize that the Plaintiff could have previously, any time it started this project, and still can, file a use variance and site plan application with the Englewood Board of Adjustment. Such an application will allow any interested parties and the public to receive public notice and make comments and have relevant issues be addressed as part of a use variance and site plan application. Numerous other uses not permitted in the residential zones, including the R-AAA Zone, have done this previously.

15. This Certification is submitted in opposition to the attempt by Plaintiff to obtain a “judicial rezoning” outside of the normal and customary land use process and in support of the right of the Plaintiff to make application to the Englewood Board of Adjustment.

16. We declare under penalty of perjury, that the foregoing is true and correct.

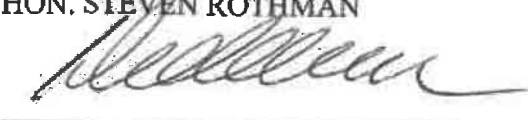
Dated:


HON. SONdra GREENBERG

Dated:

HON. STEVEN ROTHMAN

Dated:


HON. DONALD ARONSON

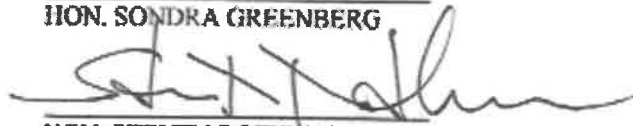
16. We declare under penalty of perjury, that the foregoing is true and correct.

Dated:

Dated:

8/21/19

HON. SONDRA GREENBERG

A handwritten signature in black ink, appearing to read "Steven Rothman", written over a horizontal line.

HON. STEVEN ROTHMAN

Dated:

HON. DONALD ARONSON

EXHIBIT “A”

E20
3/29/90

CITY OF ENGLEWOOD

ORDINANCE NO. 90- 11

AN ORDINANCE AMENDING THE ZONING ORDINANCE OF THE CITY OF ENGLEWOOD, BEING ORDINANCE NO. 79-1, AS AMENDED, ESTABLISHING THE ONE FAMILY R-AAA ZONING DISTRICT AND AMENDING THE DISTRICT BOUNDARIES OF THE R-D, R-C, R-B, R-A AND R-AA ONE FAMILY RESIDENCE ZONING DISTRICTS.

BE IT ORDAINED BY THE COUNCIL OF THE CITY OF ENGLEWOOD, BERGEN COUNTY, NEW JERSEY, as follows:

Section 1. Ordinance No. 79-1 entitled "An Ordinance Establishing a New Zoning Plan and Zoning Ordinance for the City of Englewood," constituting Article 8 of the Municipal Land Use Ordinance of the City of Englewood, being Ordinance No. 2232, is hereby amended and supplemented to add to Section 2.1 of Subarticle II thereof the following district:

"One-Family Residence - - - - - R-AAA"

Section 2. Section 2-2 of Subarticle II of Ordinance No. 79-1 entitled "An Ordinance Establishing a New Zoning Plan and Zoning Ordinance for the City of Englewood," consisting Article 8 of the Municipal Land Use Ordinance of the City of Englewood, being Ordinance No. 2232, is hereby amended and supplemented to add thereto the following additional paragraphs to read in full as follows:

"20. The district boundaries established by the aforesaid map are amended so as to designate the following described premises as being in the One-Family Residence R-B District rather than in the One-Family Residence R-D District: All of Block 1001; Lots 1, 2, 3, 17.01, 17.02, 18, 19 and 20 in Block 1003; Lots 2, 3, 4, 5, 6, 7, 8, 9 and 10 in Block 1105; and a portion

of Lot 11 in Block 1105 lying east of the line parallel to the easterly sideline of Engle Street set back a distance of 280 feet, all as shown on the tax map of the City of Englewood.

21. The district boundaries established by the aforesaid map are amended so as to designate the following described premises as being in the One-Family Residence R-AA District rather than in the One-Family Residence R-A District: Lot 16, 17, 18, 19, 20, 21, 22, 23, 24, 25, 26 and 27 in Block 1301; all of Block 1401; all of Block 1402; all of Block 1404; all of Block 1405; all of Block 1501; all of Block 1502; all of Block 1503; all of Block 1601, excepting therefrom Lot 28, 29, 30 and 31; Lots 4, 5, 6, 7, 8, 9, 10, 11.01, 11.02 and 12 in Block 1102; Lots 3, 4, 5, 6, 7, 8, 9, 10, 11 and 12 in Block 1104; all of Block 1106; all of Block 1107; all of Block 1205; all of Block 1210, excepting therefrom a portion of Lot 11 lying north of a line parallel to the northerly sideline of Palisade Avenue set back a distance of 325 feet; and Lots 12, 13, 14, 15, 16, 17, 19.01 and 20; Lots 2, 3, 4, 5, 6, 7, 8, and 9 in Block 3101; all of Block 3201; all of Block 3203; all of Block 3301; all of Block 2708 and Lot 26 in Block 1406, as shown on the tax map of the City of Englewood.

22. The district boundaries established by the aforesaid map are amended so as to designate the following described premises as being in the One-Family Residence R-AAA District

rather than in the One-Family Residence R-AA District: All of Block 1801, 1808, 1504, 1602, 1901, 1902, 3102, 3103, 3202, 3204, 3205; Lots 1, 2 3, 4, 5, 6, 7, 8, 9, 10, 11, 12, 13.01, 8.04 and that portion of Lot 31 lying westerly of the easterly boundary of a conservation easement in Block 3501 and all of Block 3601, all as shown on the tax map of the City of Englewood.

23. The district boundaries established by the aforesaid map are amended so as to designate the following described premises as being in the One Family Residence R-AA District rather than in the One Family Residence R-C District: Lots 2 and 3 in Block 1102 and Lot 13 in Block 1104, all as shown on the Tax Map of the City of Englewood."

Section 3. Section 4-1.1 (a) of Subarticle IV of Ordinance No. 79-1 entitled "An Ordinance Establishing a New Zoning Plan and Zoning Ordinance for the City of Englewood," constituting Article 8 of the Municipal Land Use Ordinance of the City of Englewood, being Ordinance No. 2232, is hereby amended to read in full as follows:

"4-1.1. Definition; Purpose

(a) 'One-Family Residence District,' as used in this ordinance, shall, unless a contrary meaning is indicated, include One-Family Residence Districts R-AAA, R-AA, R-A, R-B, R-C, R-D and R-E."

Section 4. Section 4-1.2(g)(i) of Subarticle IV of Ordinance No. 79-1 entitled "An Ordinance Establishing a New Zoning Plan and Zoning Ordinance for the City of Englewood,"

constituting Article 8 of the Municipal Land Use Ordinance of the City of Englewood, being Ordinance No. 2232, is hereby amended to read in full as follows:

"(i) The minimum required side yards and minimum required rear yard of such premises shall not be less than 25 feet greater than the required minimum set out in Section 4-1.9(a) with respect to premises in the R-AAA, R-AA and R-A districts, and not less than 15 feet greater than the required minimum set out in Section 4-1.9 with respect to premises in districts R-B, R-C, R-D and R-E."

Section 5. Section 4-1.6(b)(ii) of Subarticle IV of Ordinance No. 79-1 entitled "An Ordinance Establishing a New Zoning Plan and Zoning Ordinance for the City of Englewood," constituting Article 8 of the Municipal Land Use Ordinance of the City of Englewood, being Ordinance No. 2232, is hereby amended and supplemented to read in full as follows:

"(ii) The minimum required side yards and minimum required rear yard of such premises shall not be less than 25 feet greater than the required minimum set out in Section 4-1.9, with respect to premises in districts R-AAA, R-AA and R-A and not less than 15 feet greater than the required minimum set out in Section 4-1.9, with respect to premises in districts R-B, R-C, R-D and R-E."

Section 6. Section 4-1.8 of Subarticle IV of Ordinance No. 79-1 entitled "An Ordinance Establishing a New Zoning Plan and Zoning Ordinance for the City of Englewood," constituting Article 8 of the Municipal Land Use Ordinance of the City of Englewood, being Ordinance No. 2232, is hereby amended to add

thereto the following District and minimum lot size requirements:

"District	Lot Area in Sq. Ft.	Minimum Lot Width (in ft.)	Minimum Lot Depth (in ft.)
R-AAA	88,000	225	250"

Section 7. Section 4-1.9(a) of Subarticle IV of Ordinance No. 79-1 entitled "An Ordinance Establishing a New Zoning Plan and Zoning Ordinance for the City of Englewood," constituting Article 8 of the the Municipal Land Use Ordinance of the City of Englewood, being Ordinance No. 2232, is hereby amended and supplemented to add thereto the following district and minimum required yards:

"District	Front yard (setback)	Side Yard	Rear Yard
R-AAA	50	35	50"

Section 8. Section 4-1.9(d) of Subarticle IV of Ordinance No.79-1 entitled "An Ordinance Establishing a New Zoning Plan and Zoning Ordinance for the City of Englewood," constituting Article 8 of the Municipal Land Use Ordinance of the City of Englewood, being Ordinance No. 2232, is hereby amended and supplemented to add thereto the following district and required planting area:

"District	Area Adjacent to Each Side Lot Line (in ft.)	Area Adjacent to Rear Lot Line (in feet)
R-AAA	15	15".

Section 9. Section 4-1.10(d)(i) of Subarticle IV of Ordinance No.79-1 entitled "An Ordinance Establishing a New Zoning Plan and Zoning Ordinance for the City of Englewood," constituting Article 8 of the Municipal Land Use Ordinance of the City of Englewood being Ordinance No. 2232, is hereby amended to read in full as

follows:

"(i) Cornices and cantilevered roofs may project into any required yard in an R-AAA, R-A, R-B and R-C district a distance of not more than 24 inches, and into any required yard in an R-D and R-E district a distance of not more than 12 inches."

Section 10. Section 4-1.11(a) of Subarticle IV of Ordinance No. 79-1 entitled "An Ordinance Establishing a New Zoning Plan and Zoning Ordinance for the City of Englewood," constituting Article 8 of the Municipal Land Use Ordinance of the City of Englewood being Ordinance No. 2232, is hereby amended and supplemented to add thereto the following district and height limitation:

"District	Maximum Height in feet"
R-AAA	35

Section 11. Section 4-1.13 of Subarticle IV of Ordinance No. 79-1 entitled "An Ordinance Establishing a New Zoning Plan and Zoning Ordinance for the City of Englewood," constituting Article 8 of the Municipal Land Use Ordinance of the City of Englewood, being Ordinance No. 2232, is hereby amended and supplemented to add thereto the following district and maximum coverage limitations:

"District	Maximum Coverage
One Family Residence R-AAA	10%

Section 12. Ordinance 79-1 entitled "An Ordinance Establishing a New Zoning Plan and Zoning Ordinance for the City of Englewood," constituting Article 8 of the Municipal Land Use Ordinance of the City of Englewood, being Ordinance No. 2232, is hereby amended and supplemented to add thereto Section 6-6 of

Subarticle VI to read in full as follows:

"Section 6-6. New Construction on Nonconforming Lots. New one-family residential structures may be constructed on any lawful pre-existing nonconforming lot within the R-AA and R-AAA zoning districts as established herein, notwithstanding that such lot is nonconforming as to lot size, width or depth provided that:

(a) Such lot meets the following minimum lot size requirements:

District	Lot Area in Sq. Ft.	Lot Width in feet	Lot Depth in feet
R-AAA	44,000	175	200
R-AA	22,000	120	150

(b) Such lot does not require subdivision approval;

(c) Any such construction shall be fully in accordance with all of the applicable provisions of the Zoning Ordinance."


Section 13. All ordinances or parts thereof inconsistent herewith are hereby repealed to the extent of such inconsistency.

Section 14. If any sentence, section, clause or other portion of this ordinance or the application thereof to any person or circumstance shall for any reason be adjudged by a court of competent jurisdiction to be invalid, such judgment shall not affect, impair or repeal the remainder of this ordinance.

Section 15. This ordinance shall take effect immediately upon passage and publication as required by law and upon filing with the Planning Board of the County of Bergen.

APPROVED

MAY 15 1990


MAYOR

-7-

90-11

I hereby certify that the foregoing is a true copy of an ordinance adopted by the Council of the City of Englewood, N.J.

on MAY 15 1990


JACK DRAKEFORD, CITY CLERK